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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 18

Application Number: 09/515,699
Filing Date: February 29, 2000
Appellant(s): MINER, CAMERON SHEA

Samuel A. Kassatly (Reg. No. 32,247)
For Appellant

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Technology Center 2100

EXAMINER'S ANSWER

1. This is in response to the Supplemental Appeal Brief filed February 6, 2004.

Real Party in Interest

2. A statement identifying the real party in interest is contained in the Appeal Brief filed August 15, 2003 is correct.

Related Appeals and Interferences

3. The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

Status of Claims

4. Claim 2 has been cancelled in the Supplemental Appeal Brief filed February 6, 2004, therefore claims 1, 3, 5-14, 16-20, 39, 40, and 42-46 are pending and remain in the application.

Status of Amendments After Final

5. No amendment after final has been filed, thus the appellants' statement of the status of the claims contained in the Appeal Brief filed August 15, 2003 is correct.

Summary of Invention

6. The summary of invention contained in the brief is correct.

Issues

7. The appellant's statement of the issues in the brief is correct.

Grouping of Claims

8. The appellant's statement of the grouping of the claims in the Appeal Brief filed August 15, 2003 is correct with the exception of claim 2, which has been cancelled.

ClaimsAppealed

9. The copy of the appealed claims contained in the Appendix to the brief is correct.

Prior Art of Record

10. Smith et al. (US 5,970,499A) issued on October 19, 1999, but filed April 11, 1997.

Bull et al. (US 5,901,287A) issued on May 4, 1999, but filed July 24, 1996.

Grounds of Rejection

11. The following ground(s) of rejection are applicable to the appealed claims:

A) Claims 1, 3, 5-7, 11-13, 16-17, 39-43, and 45-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (US 5,970,499A).

INDEPENDENT:

As per claim 1, Smith teaches of a system (see col.2, lines 45-47) for automatically (see col.2, lines 47-49) associating (see col.1, lines 6-7: "data fusion system"; lines 8-9: "contemporaneous assimilation"; lines 13-16: unified view; 35-36: "correlated with each other"; lines 41-43: "fusing"; and col.2, lines 26-31 & 37-42) contextual input data (see Fig.2, #242: col.1, lines 9-13 & 55-58; col.2, lines 50-51, 58, & 66: "subject data"; col.5, lines 24-28 & 57-64; col.10, lines 27-35 & 49-52; and col.11, lines 50-53) with available multimedia resources (see abstract; col.2, lines 5-11, lines 50, 65, & 67: "co-registered data"; and col.4, line 66 to col.5, line 11), comprising: a contextual input device for capturing the contextual input data (see Fig.2, #245; and col.5, lines 13-17 & 24-28); an assistant device (see Fig.2, #243: "server") for

processing the contextual input data captured by the contextual input device (see col.5, lines 29-52: "Next, deformation engine 204 fits the selected template to patient data received from the client computer. The process of deforming the selected template to fit the patient data 200 creates a mapping relationship (map 248) relating template data space to a patient data space coordinate system to an element of co-registered data 214."), and for formulating a query based on processed contextual input data and a user profile (see Fig.2, #210 & #242; and col.5, lines 53-67: "The server then produces composite data using mapping engine 206 and map 248 to combine patient data and filtered, co-registered data (step 314), producing composite data 244"); and a contextual multimedia association module (see Fig.2, #206: Mapping Engine) for associating the processed contextual input data with the multimedia resources (see Fig.2, #220 & #222; and col.8, lines42-47) and for generating association matches (see col.5, lines 43-48 and line 64 to col.6, line 16).

As per claim 13, Smith teaches of a method (see col.2, lines 45-47) for automatically (see col.2, lines 47-49) associating (see col.1, lines 6-7: "data fusion system"; lines 8-9: "contemporaneous assimilation"; lines 13-16: unified view; 35-36: "correlated with each other"; lines 41-43: "fusing"; and col.2, lines 26-31 & 37-42) contextual input data (see Fig.2, #242: col.1, lines 9-13 & 55-58; col.2, lines 50-51, 58, & 66: "subject data"; col.5, lines 24-28 & 57-64; col.10, lines 27-35 & 49-52; and col.11, lines 50-53) with available multimedia resources (see abstract; col.2, lines 5-11, lines 50, 65, & 67: "co-registered data"; and col.4, line 66 to col.5, line 11), comprising: capturing the contextual input data (see Fig.2, #245; and col.5, lines 13-17 & 24-28);

processing the contextual input data (see col.5, lines 29-52: "Next, deformation engine 204 fits the selected template to patient data received from the client computer. The process of deforming the selected template to fit the patient data 200 creates a mapping relationship (map 248) relating template data space to a patient data space coordinate system to an element of co-registered data 214."); formulating a query based on processed contextual input data and a user profile (see Fig.2, #210 & #242; and col.5, lines 53-67: "The server then produces composite data using mapping engine 206 and map 248 to combine patient data and filtered, co-registered data (step 314), producing composite data 244"); and associating the processed contextual input data with the multimedia resources (see Fig.2, #220 & #222; and col.8, lines42-47) and for generating association matches (see col.5, lines 43-48 and line 64 to col.6, line 16).

As per claim 39, Smith teaches of a system (see col.2, lines 45-47) for automatically (see col.2, lines 47-49) associating (see col.1, lines 6-7: "data fusion system"; lines 8-9: "contemporaneous assimilation"; lines 13-16: unified view; 35-36: "correlated with each other"; lines 41-43: "fusing"; and col.2, lines 26-31 & 37-42) contextual input data (see Fig.2, #242: col.1, lines 9-13 & 55-58; col.2, lines 50-51, 58, & 66: "subject data"; col.5, lines 24-28 & 57-64; col.10, lines 27-35 & 49-52; and col.11, lines 50-53) with available multimedia resources (see abstract; col.2, lines 5-11, lines 50, 65, & 67: "co-registered data"; and col.4, line 66 to col.5, line 11), comprising: means for capturing the contextual input data (see Fig.2, #245; and col.5, lines 13-17 & 24-28); means (see Fig.2, #243: "server") for processing the contextual input data captured by the contextual input device (see col.5, lines 29-52: "Next, deformation

engine 204 fits the selected template to patient data received from the client computer. The process of deforming the selected template to fit the patient data 200 creates a mapping relationship (map 248) relating template data space to a patient data space coordinate system to an element of co-registered data 214."), and formulating a query based on processed contextual input data and a user profile (see Fig.2, #210 & #242; and col.5, lines 53-67: "The server then produces composite data using mapping engine 206 and map 248 to combine patient data and filtered, co-registered data (step 314), producing composite data 244"); and means (see Fig.2, #206: Mapping Engine) for associating the processed contextual input data with the multimedia resources (see Fig.2, #220 & #222; and col.8, lines42-47) and generating association matches (see col.5, lines 43-48 and line 64 to col.6, line 16).

DEPENDENT:

As per claims 3 and 40, Smith further teaches wherein the assistant device automatically formulates the query based on a contextual input from the user (see claim 1 rejection above and col.2, lines 45-61).

As per claim 5, Smith further teaches wherein the contextual input device digitizes the contextual input data. Although Smith does not explicitly teach that the contextual input device digitizes the contextual input data, such process is inherent with all data or information transferred to, from, or via a computer and is well known in the art.

As per claim 6, 16, and 42, Smith further teaches wherein the assistant device presents the association matches to a user (see col.5, line 67 to col.6, line 16).

As per claims 7, 17, and 43, Smith further teaches wherein the assistant device develops the user profile based on association matches that were previously presented to the user (see col.5, lines 63-64).

As per claims, 11, 12, and 46, Smith further teaches wherein the contextual input data are based on any one or more of image signals or audio signals (see col.1, lines 9-13 & 55-58); and wherein processing the contextual input data includes enhancing the quality of the any one or more of image signals or audio signals (see col.7, line 65 to col.8, line 1).

As per claim 45, Smith further teaches wherein the contextual multimedia association applies the query to a data store on a network (see Fig.7 and col.9, line 57 to col.11, line 3).

B). Claims 2, 8-10, 14, 18-20, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 5,970,499A) in view of Bull et al. (US 5,901,287A).

As per claims 8, 18, and 44, although Smith teaches all the limitations of claim 8, 18, and 44 including of an assistant device (see Fig.2, #243), he does not explicitly teach wherein the assistant device updates the user digital profile based on recent association matches. However Smith suggest updating user digital profile based on recent association matches because Smith teaches of a user profile database (see col.9, lines 5-16) and in a device used in the industry for making informed decisions (see col.1, lines 9-16) based on user, client, or patient analysis, the data within the

database must be current. Bull teaches of updating the user digital profile based on recent association matches (see col.8, line 65 to col.9, line 2 and col.12, lines 2-4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bull within the system of Smith by updating user profile within the system and method of associating contextual input data with multimedia resources because current user, client, or patient data can be utilized to make proper informed decisions on evaluation. In addition, when databases are not updated and are stale, the data is unusable or corrupt, or even unreliable which can have unbearable consequences in the medical industry such as resulting in death of a patient due to improper diagnosis.

As per claims 2 and 14, Smith further teaches wherein the assistant device automatically formulates the query based on a contextual input from the user (see claim 1 rejection above and col.2, lines 45-61).

As per claims 9, and 19, Smith further teaches wherein the contextual multimedia association applies the query to a data store on a network (see claim 45 rejection above).

As per claim 10, Smith further teaches wherein the network includes the World Wide Web (see col.2, lines 26-42; col.4, line 66 to col.5, line 3; and col.6, lines 41-49).

As per claims 20, Smith further teaches wherein the contextual input data are based on any one or more of image signals or audio signals; and wherein processing the contextual input data includes enhancing the quality of the any one or more of image signals or audio signals (see claim 11 rejection above).

Response to Argument

12. The examiner summarizes the various points raised by the appellant and addresses replies individually. As per appellants' arguments filed February 6, 2004, the appellant(s) argue in substance:

A. Smith does not disclose:

1. Client 245 in Smith does not capture the contextual input data.
2. Server 243 in Smith does not formulate a query based on processed contextual input data and a user profile.
3. Audio, Video Component 220 in Smith does not associate the filtering context data 242 with the multimedia resources.

B. Smith and Bull cannot be combined because they lack obviousness.

In reply to the argument of A.1. above, Smith clearly teaches the limitation of capturing the contextual input data (see col.5, lines 13-17 & 24-28). Firstly, Smith's "collects" and "collected" is synonymous with "capturing". Secondly, the examiner corrects the appellants' misunderstanding of the "filtering context" taught by Smith. The examiner does not analogize "contextual input data" with "filtering context". The examiner analogies "contextual input data" with simply context. Smith uses the term "filtering context" because the context is used for filtering.

Clearly, Smith teaches that to retrieve composite data, derived from co-registered data (which could include multimedia resources: see Fig.2, #220 and #222), an operator “collects patient data 200 using a client computer” (see col.5, lines 13-17). Additionally, Smith teaches that the “filtering context can be derived from data provided by the client computer” (see col.5, lines 60-63), thus the collected “patient data” must contain context to derive a filtering context. Deriving is by definition: to take, receive, or obtain from a specified source. Thus the context used for filtering must be obtained from some source, wherein Smith clearly teaches that they are collected.

In addition, Smith teaches that alternatively, the filtering context can be derived from previously stored profiles or histories (see col.5, lines 63-64), thus one would conclude that the filtering context is collected at the client device and not “collected or stored on the client 245” as assumed by the appellant(s).

In reply to the argument of A.2. above, Smith clearly teaches of formulating a query based on processed contextual input data and a user profile (see Fig.2, #210 & #242; and col.5, lines 53-67: “The server then produces composite data using mapping engine 206 and map 248 to combine patient data and filtered, co-registered data (step 314), producing composite data 244”). If the “search and filter engine 210” of Smith is not used to formulate a query, the one would ask what such module is used for. Clearly Smith teaches of searching (“formulating a query”) based on “processed contextual input data” (see col.5, lines 60-63: the contextual data is processed because Smith teaches of “filtering context can be derived from data provided by the client computer”)

and user profile (see col.5, lines 47-48: "co-registered data 214 can be mapped to patient data 200").

In reply to the argument of A.3. above, Smith clearly teaches of associating the processed contextual input data with the multimedia resources and generating association matches (see col.5, lines 43-48 and line 64 to col.6, line 16). In Fig.2 of Smith, the #220 and #222 are databases of multimedia resources which are two of a plurality of "co-registered data 214" as taught throughout the reference. Clearly as taught in the above reply, Smith associates the processed contextual input data with the co-registered data.

In reply to the argument of B above, although Smith teaches of an assistant device (see Fig.2, # 243), he does not explicitly teach of the assistant device updating the user digital profile based on recent association matches. However Smith does suggest such limitation since Smith teaches of a co-registered data comprising user digital profile (see col.9, lines 5-16), therefore, in a medical device used to evaluate a patient successfully and make informed decisions (see col.1, lines 9-16), one of ordinary skill in the art at the time the invention was made would incorporate a database updating mechanism based on recent matches because if databases did not contain the most current and useful information, then the data within becomes stale, unusable, and unreliable.

Appellants' argument(s) presume additional limitations that which are not clearly and distinctly recited in the claims and simultaneously presume a variant of what Smith teaches. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

13. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Young N Won



April 5, 2004

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